

C O P Y *in 24 P*

1951

Mar. 9

Mr. Royden E. Reed, Business Supervisor
Department of Administration and Control
State House

Dear Sir:

You have inquired whether the Commissioner of Mental Hygiene has authority to enter into a contract with a private charitable organization for a receiving home. It is my opinion that the Commissioner of Mental Hygiene has no authority to enter into such a contract.

Section 9 of chapter 270 of the Laws of 1947 authorizes a capital appropriation limited to the purposes of that chapter. The authorization of section 2 of said chapter for the commission to establish a study home was qualified by section 3 of chapter 270 of the Laws of 1947 expressing a policy that "the home shall be maintained primarily for the psychiatric and psychologic study and treatment of such children as may be committed to its care for that purpose." Since the appropriation statute limits expenditures for a particular purpose, we cannot construe the authorization for a general purpose.

As a secondary purpose, the study home may be utilized by the Commissioner of Public Welfare for neglected children pending their disposition under section 10 of chapter 132 of the Revised Laws. However, there is no requirement or authority for the Commissioner of Mental Hygiene to expend the capital appropriation for a receiving home separate and distinct from the study home. While the subcommittee in the State's delinquency agencies recognized the need of a separate study home and a receiving home, the committee recommended combining the study home and the receiving home for children. Chapter 270 of the Laws of 1947 enacted the committee's recommendation without requiring the State to provide a receiving home, except insofar as the study home could be used for that purpose.

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It is my conclusion that capital appropriation cannot be used to contract with a private charitable organization for a receiving home. However, capital appropriation under chapter 370 of the Laws of 1947 may be used: (1) for purposes of modernization or renovation of buildings required as a study home and (2) to provide staff quarters in auxiliary buildings acquired in the purchase of the Wilmette property.

Very truly yours,

Gorden M. Tiffany
Attorney General

JNN:rm